

BEFORE THE HEARING EXAMINER  
IN AND FOR THE COUNTY OF SNOHOMISH

In Re Frogmal Estates,

No. 05-123050 SD

Picnic Point Preservation Committee,

Appellant,

Amended Order Scheduling Open Record  
Hearing and Telephonic Conference

Frogmal Estates, LLC,

Applicant,

Snohomish County Planning and  
Development Services Department,

Respondent.

1 The Examiner previously struck the open record hearing scheduled to begin on January 11,  
2 2015 because PDS failed to provide adequate notice of the proposed alteration of the  
3 subdivision. The remaining task is to re-schedule the open record hearing of the SEPA appeal  
4 and applications for subdivision alteration and preliminary plat approval. The original hearing  
5 schedule called for potentially five hearing days with one night session for public comment on  
6 the applications for preliminary plat and subdivision alteration.

7 Counsel for the SEPA appellants has plans (and a plane ticket) to be out of the country until the  
8 third week of February. Appellants therefore ask that the rescheduled hearing occur after he  
9 returns.

10 Applicant Frogmal Estates, LLC, wants the hearing to occur as soon as possible. It has  
11 obviously invested a substantial amount of time and money in this project, which dates back to  
12 at least 2005.

13 The party at fault for the delay, PDS, will suffer no damage or inconvenience whether the  
14 hearing is scheduled sooner or later.<sup>1</sup>

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<sup>1</sup> The Examiner lacks the authority to impose costs or terms.

1 Balancing the needs of the principal parties who were not responsible for the delay, the  
2 Examiner believes it is important, fair, and equitable that appellants have the ability to use the  
3 counsel of their choice and not have to suffer the cost and difficulties of getting a new counsel  
4 quickly up to speed on the case. The Examiner also believes that a prompt resolution is  
5 important, fair, and equitable to Frogmal and to the public.

6 The final issues that must be considered are conflicts with other hearings and the availability of  
7 the hearing room, especially where, as here, significant community attendance is anticipated.

8 Therefore, the open record hearing will rescheduled as follows:

Date	Time	Agenda
February 29, 2016 (Monday)	2 p.m. to 5 p.m.	1. SEPA appeal opening statements 2. SEPA appeal
	6 p.m. to 9 p.m.	1. Project description by PDS then Frogmal (6-6:45) 2. Public comment on subdivision alteration and preliminary plat (6:45-9)
March 1, 2016 (Tuesday)	Noon to 7 p.m.	SEPA appeal
March 2, 2016 (Wednesday)	1 p.m. to 5 p.m.	SEPA appeal
March 8, 2016 (Tuesday)	1 p.m. to 7 p.m.	SEPA appeal (if necessary)
March 9, 2016 (Wednesday)	9 a.m. to 5 p.m.	SEPA appeal (if necessary)

9 This schedule balances the needs of the parties with the availability of the hearing room.

Also, a telephonic conference with the principal parties will be held **Thursday, January 28, 2016 at 2:30 p.m.** for oral argument regarding the applicant's pending dispositive motion.

DATED this 14<sup>th</sup> day of January, 2016.

  
Peter B. Camp

Snohomish County Hearing Examiner

### EXPLANATION OF RECONSIDERATION

This is an interim order from which no right of appeal lies. However, reconsideration by the Examiner may also be sought by one or more Parties of Record as provided by SCC 2.02.170 (2013). The following paragraphs summarize the reconsideration and appeal processes. For more information about reconsideration procedures, please see chapter 2.02 SCC and the Examiner Rules of Procedure.

#### **Reconsideration**

Any Party of Record may request reconsideration by the Examiner pursuant to SCC 2.02.170 (2013). A petition for reconsideration must be filed in writing with the Office of the Hearing Examiner, 3000 Rockefeller Avenue, M/S #405, Everett WA 98201, **on or before January 25, 2016.**<sup>2</sup> There is no fee for filing a petition for reconsideration. The petitioner for reconsideration "shall mail or otherwise provide a copy of the petition of reconsideration to all parties to the appeal on the date of filing."

The petition for reconsideration does not have to be in any special form but must:

- (a) Contain the name, mailing address and daytime telephone number of the petitioner, together with the signature of the petitioner or of the petitioner's attorney, if any;
- (b) Identify the specific findings, conclusions, actions and/or conditions for which reconsideration is requested;
- (c) State the relief requested; and,
- (d) Where applicable, identify the specific nature of any newly discovered evidence and/or changes proposed by the applicant.

<sup>2</sup> Ten days falls on Sunday, January 24, 2016. Therefore, the deadline moves to the next business day, Monday, January 25, 2016.

1 The grounds for seeking reconsideration are limited to the following:

2 (a) The Hearing Examiner exceeded the Hearing Examiner's jurisdiction;

3 (b) The Hearing Examiner failed to follow the applicable procedure in reaching the Hearing  
4 Examiner's decision;

5 (c) The Hearing Examiner committed an error of law;

6 (d) The Hearing Examiner's findings, conclusions and/or conditions are not supported by the  
7 record; or

8 (e) New evidence which could not reasonably have been produced and which is material to  
9 the decision is discovered.

10 Please include the County file number in any correspondence regarding this case.

11 Staff Distribution: Ryan Countryman, Planning and Development Services